

Message Text

CONFIDENTIAL

PAGE 01 NEW DE 11687 050723Z

21-11

ACTION AEC-11

INFO OCT-01 NEA-10 EUR-25 ISO-00 ACDA-19 CIAE-00 INR-10

IO-15 L-03 NSAE-00 NSC-10 RSC-01 SCI-06 SCEM-02

DODE-00 SS-15 DRC-01 /129 W
----- 020370

R 050700Z OCT 73

FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC 7212

C O N F I D E N T I A L NEW DELHI 11687

FOL BOMBAY TEL RPTD FYI

QUOTE

R 040951Z OCT 73

FM AMCONSUL BOMBAY

TO AMEMBASSY NEW DELHI

C O N F I D E N T I A L BOMBAY 1957

E. O. 11652 N/A

TAGS: IAEA, TECH, ESTC

SUBJ: INDIA'S UNAUTHORIZED TRANSFER OF US NUCLEAR MATERIAL
TO FRG

REF: STATE 190777

REQUEST FOLLOWING BE TRANSMITTED TO DEPARTMENT, IF EMBASSY
HAS NO OBJECTION:

1. IF DEPARTMENT HAS NO OBJECTION, WE PROPOSE DISCUSS
FOLLOWING DRAFT LETTER WITH SETHNA/DAE EARLY NEXT WEEK. WE
WILL NOT MAKE APPOINTMENT WITH HIM UNTIL WE RECEIVE
CLEARANCE AND/OR SUGGESTED CHANGES IN DRAFT FROM DEPARTMENT,
BUT WOULD HOPE WE CAN REQUEST APPOINTMENT NO LATER THAN 9
OR 10. COMPLETE TEXT LETTER FOLLOWS.

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2. BEGIN TEXT. DEAR CHAIRMAN SETHNA: I SHOULD LIKE TO THANK

YOU FOR YOUR LETTER OF SEPTEMBER 7,1973, AND YOUR KINDNESS IN TAKING TIME OVER THE PAST SEVERAL WEEKS TO DISCUSS WITH US THE SHIPMENT TO GERMANY BY INDIA OF U. S. ORIGIN NUCLEAR MATERIALS. WE ARE PARTICULARLY PLEASED WITH THE DEPARTMENT OF ATOMIC ENERGY'S RESPONSE CONCERNING THE COMPLETION OF JOINT NOTIFICATION FORMS RELATING TO THESE TRANSFERS, AND WE NOTE THE IMPORTANCE THAT YOU PLACE ON THE SUBMISSION OF COMPLETED JOINT NOTIFICATION FORMS.

THESE DISCUSSIONS AND, INDEED, YOUR CORRESPONDENCE OF SEPTEMBER 7 INDICATED THAT THERE ARE A NUMBER OF BASIC POINTS WHICH NEED CLARIFICATION. I REFER PARTICULARLY TO THE INTERPRETATION OF ARTICLE VII OF THE BILATERAL AGREEMENT FOR COOPERATION BETWEEN INDIA AND THE U.S.A. IN THE CIVIL USE OF ATOMIC ENERGY AND SECTIONS 7 AND 9 OF THE TRILATERAL AGREEMENT BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY, THE GOVERNMENT OF INDIA AND THE GOVERNMENT OF THE U.S.A. IN ADDITION, THE QUESTION HAS BEEN RAISED WHETHER THE TRILATERAL AGREEMENT SUPERSEDES THE BILATERAL AGREEMENT.

WE HAVE BEEN INSTRUCTED BY WASHINGTON TO INFORM YOU THAT WE CONSIDER THE LANGUAGE OF ARTICLE VII OF THE BILATERAL AGREEMENT UNAMBIGUOUS IN REFERRING TO JURISDICTION AND NOT TO OWNERSHIP. THIS PROVISIO IS COMMON TO ALL U. S. AGREEMENTS FOR COOPERATION IN THE NUCLEAR FIELD AND HAS NEVER BEEN SUBJECTED TO ANY OTHER PROPOSED INTERPRETATION. IN ACCORDANCE WITH ARTICLE VII OF THE BILATERAL U.S.-INDIA AGREEMENT FOR COOPERATION, ADVANCE U.S. AGREEMENT MUST BE OBTAINED PRIOR TO ANY TRANSFER OF ANY U.S. SUPPLIED MATERIAL BEYOND GOI JURISDICTION AND JOINT NOTIFICATIONS SHOULD BE HANDLED PROMPTLY IN ACCORDANCE WITH SECTION 7 OF THE U.S./INDIA/IAEA TRILATERAL AGREEMENT. IT IS ONLY WHEN THE IAEA IS NOTIFIED BY THE JOINT NOTIFICATIONS FROM BOTH COUNTRIES THAT THE TRILATERAL AGREEMENT COMES INTO EFFECT. THE TRILATERAL AGREEMENT PROVIDES FOR IAEA ADMINISTRATION OF THE SAFEGUARDS PROVISIONS OF THE BILATERAL AGREEMENT AND SECTION 4 OF THE TRILATERAL AGREEMENT SUSPENDS ONLY U.S. RIGHTS TO IMPLEMENT THE SAFEGUARDS REQUIREMENT OF ARTICLE VI OF THE BILATERAL AGREEMENT. THE TRILATERAL AGREEMENT IN NO WAY AFFECTS OTHER PROVISIONS OF THE BILATERAL AGREEMENT;
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IT DOES NOT IN ANY OTHER WAY SUPERSEDE THE BILATERAL AGREEMENT; AND, OF COURSE, IT DOES NOT AFFECT ARTICLE VII OF THE BILATERAL AGREEMENT.

IT IS ONLY THROUGH JOINT NOTIFICATIONS THAT U.S. MATERIALS CAN BECOME SUBJECT TO IAEA SAFEGUARDS. THEREAFTER, THE OTHER PROVISIONS OF THE TRILATERAL AGREEMENT, E. G. SECTIONS 9, 10 AND 11 COME INTO PLAY. THE UNITED STATES GOVERNMENT EXPECTS

THE GOVERNMENT OF INDIA TO IMPLEMENT PROMPTLY THE OBLIGATIONS
SET FORTH IN THESE PROVISIONS OF BOTH THE BILATERAL AND
TRILATERAL AGREEMENTS.

WE APPRECIATE THE PROMPT RESPONSE OF YOUR OFFICE TO THE
NEED FOR EXPEDITING AN UNDERSTANDING OF THE AGREEMENTS AND
LOOK FORWARD TO A CONTINUED HARMONIOUS RELATIONSHIP.
END TEXT.
MCCASKILL

UNQUOTE
SCHNEIDER

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NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
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Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 05 OCT 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: elyme
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973NEWDE11687
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS SCHNEIDER
Errors: N/A
Film Number: n/a
From: NEW DELHI
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19731047/aaaabivq.tel
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Locator: TEXT ON-LINE
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Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
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Review Exemptions: n/a
Review History: RELEASED <29-Aug-2001 by martinml>; APPROVED <13-Sep-2001 by elyme>
Review Markings:

Declassified/Released
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EO Systematic Review
30 JUN 2005

Review Media Identifier:
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Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: INDIA'S UNAUTHORIZED TRANSFER OF US NUCLEAR MATERIAL TO FRG
TAGS: TECH, ESTC, IAEA
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005